

A. G. Contract No. KR97 1009TRN  
ADOT ECS File: JPA 97-70  
Proj: Rural Public Transportation  
Sect: FY-97-98 Section 5311 Transit

INTERGOVERNMENTAL AGREEMENT  
BETWEEN

THE STATE OF ARIZONA  
AND

THE NAVAJO NATION  
Navajo Transit System  
PO Box 1330  
Window Rock, Arizona 85615

THIS AGREEMENT is entered into 23 July, 1997,  
pursuant to Arizona Revised Statutes Section 11-952 through 11-  
954 as amended, between the STATE OF ARIZONA, acting by and  
through its DEPARTMENT OF TRANSPORTATION (the "State") and the  
NAVAJO NATION, acting by and through its TRIBAL COUNCIL (the  
"Tribe").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes  
Section 28-108 and 28-112 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has delegated  
to the undersigned the authority to execute this agreement on  
behalf of the State.

2. The Tribe is empowered by Tribal Council Resolution to  
enter into this agreement and has resolved to enter into this  
agreement and has authorized the undersigned to execute this  
agreement on behalf of the Tribe.

3. The Federal Intermodal Surface Transportation Efficiency  
Act of 1991 has made funds available to the State to obtain and  
provide public transportation (Section 5311 transit). The State  
and the Tribe desire to define their respective responsibilities  
relating to the transfer of up to \$222,264.00 thru the State to  
the Tribe and the expenditure thereof.

THEREFORE, in consideration of the mutual agreements expressed  
herein, it is agreed as follows:

NO. <u>21740</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>07/23/97</u>
<u>Gene Lee Hull</u> Secretary of State
By <u>Vicky Greenwald</u>

## II. SCOPE

### 1. The State will:

Provide the Tribe federal funds in the amount of up to \$222,264.00, on a monthly cost reimbursement basis for activities performed relating to the Section 5311 public transportation program.

### 2. The Tribe will:

a. Apply funding to project work activities in strict accordance with applicable Tribal, Federal and State laws, rules and regulations.

b. Conduct related work activities generally in accordance with Exhibit 1 and attachments thereto, which are incorporated herein and made a part hereof. Be responsible for all costs of the program over and above the State contribution of \$222,264.00.

c. Provide the required \$159,262.00 match in funds or in-kind services, and invoice the State for reimbursement no more often than monthly.

## III. MISCELLANEOUS PROVISIONS

1. The only interest of the Arizona Department of Transportation in this agreement is to convey federal pass through funds for the use and benefit of the Tribe by reason of State and Federal law under which funds for the activities are authorized to be expended.

2. This agreement shall remain in force and effect until completion of said activities and reimbursements; provided, however, that this agreement may be cancelled at any time prior to the commencement of performance, upon thirty (30) days written notice to the other party.

3. Should the work contemplated under this agreement be completed at a lower cost than the reimbursed amount, or for any other reason should any of these funds not be expended, a proportionate amount of the funds provided shall be reimbursed to the State.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to select a process acceptable to the State and the Tribe to resolve such disputes. Such process shall include a provision of arbitration.

8. All notices or demands upon any party relating to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

The Navajo Nation  
Navajo Transit System and  
PO Drawer 1330  
Window Rock, AZ 86515

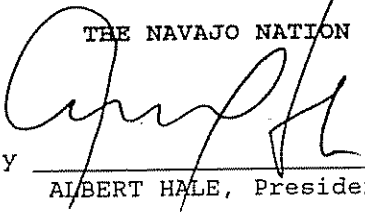
Contracting Officer  
The Navajo Nation  
Office of Contracts & Grants  
PO Box 646  
Window Rock, AZ 86515

9. Attached hereto is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

THE NAVAJO NATION

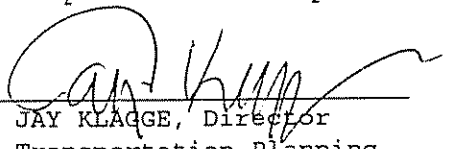
By

  
ALBERT HALE, President

STATE OF ARIZONA

Department of Transportation

By

  
JAY KLAGGE, Director  
Transportation Planning

ATTEST

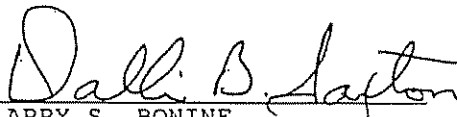
BY

  
THOMAS ATCHITTY  
Vice President

RESOLUTION

BE IT RESOLVED on this 13th day of May 1997, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Navajo Nation for the purpose of defining responsibilities for the FY-97 - 98 Section 5311 Transit Grant.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the State Traffic Engineer for approval and execution.

  
for LARRY S. BONINE  
Director

RESOLUTION OF THE  
INTERGOVERNMENTAL RELATIONS COMMITTEE  
OF THE NAVAJO NATION COUNCIL

Approving the Grant Application For Submittal to the  
Arizona Department of Transportation For Federal  
Matching Funds in the Amount of \$382,216.00 Under  
the Federal Transit Administration Rural Public  
Transportation Program and Authorizing the Navajo  
Nation President to Sign the Application and Accept  
the Grant, When Awarded, on Behalf of the Navajo  
Nation, Provided No Substantial Changes Are Made  
Made in Terms or Conditions as Authorized  
Under the Application

WHEREAS:

1. Pursuant to 2 N.N.C. §824 (B) (6), the Intergovernmental Relations Committee of the Navajo Nation Council is empowered to authorize, review, approve and accept agreements, including contracts and grants, between the Navajo Nation and any federal, state or regional authority upon the recommendation of the standing committee which has oversight of the division, department or program which has applied for the agreement; and
2. The Navajo Nation/Navajo Transit System is applying for federal monies through the Arizona Department of Transportation for federal matching funds in the amount of \$382,216.00 under the Rural Public Transportation Program as authorized by the Federal Transit Administration (FTA); said application is attached hereto and incorporated herein as Exhibit "A". The Navajo Nation's share will be in the amount of \$200,413.00; and
3. The Arizona Department of Transportation administers the federal funds provided under the FTA Rural Public Transportation Program. The Navajo Nation/Navajo Transit System provides public transportation for the residents of the Navajo Nation; and
4. Pursuant to Government Services Committee Resolution GSCAP-24-97 (attached as Exhibit "B"), the Government Services Committee of the Navajo Nation Council recommends that the Intergovernmental Relations Committee of the Navajo Nation Council approve the application and authorize acceptance of the federal matching funds.

NOW THEREFORE BE IT RESOLVED THAT:

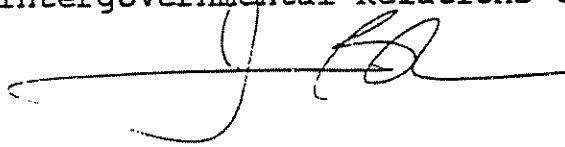
1. The Intergovernmental Relations Committee of the Navajo Nation Council hereby approves the grant application for submittal to the Arizona Department of Transportation for federal matching funds in the amount of \$382,216.00 under the Federal Transit Administration, Rural Public Transportation Program.

2. The Intergovernmental Relations Committee of the Navajo Nation Council further authorizes the Navajo Nation President to sign the application for federal matching funds and to accept the grant, if awarded, on behalf of the Navajo Nation provided no substantial changes are made in terms or conditions as authorized under the application.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Intergovernmental Relations Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 7 in favor, 0 opposed and 0 abstained, this 28th day of April, 1997.

James Bilagody, Chairperson Pro Tempore  
Intergovernmental Relations Committee



Motion: Young Jeff Tom  
Second: Rex Morris, Jr.

GSCAP-24-97

RESOLUTION OF THE  
GOVERNMENT SERVICES COMMITTEE OF  
THE NAVAJO NATION COUNCIL

Recommending that the Intergovernmental Relations Committee of the Navajo Nation Council Approve the Application for Matching Funds From the Federal Transit Administration Rural Public Transportation Program in the Amount of \$382,216.00 Enabling the Navajo Transit System to Continue to Provide Public Transportation Services to the Navajo Nation Residents

WHEREAS:

1. Pursuant to 2 N.N.C. §341 (B), the purpose of the Government Services Committee of the Navajo Nation Council is to monitor and coordinate activities of departments within the Executive Branch; and

2. Pursuant to 2 N.N.C. §185 (B)(1), the Government Services Committee of the Navajo Nation Council has authority to recommend the acceptance of federal, state or other outside funds on behalf of the Navajo Nation subject to the Intergovernmental Relations Committee's final authorization, review, approval and acceptance; and

3. The Navajo Nation/Navajo Transit System is applying for federal monies through the Arizona Department of Transportation for matching funds in the amount of \$382,216.00 under the Rural Public Transportation Program as authorized by the Federal Transit Administration (FTA); said application is attached hereto and incorporated herein as Exhibit "A". The Navajo Nation's share will be in the amount of \$200,413.00 and

4. The Arizona Department of Transportation administers the federal funds provided under the FTA Rural Public Transportation Program. The Navajo Nation/Navajo Transit System Program provides the public transportation services to the residents of the Navajo Nation; and

5. The Government Services Committee of the Navajo Nation Council believes it in the best interest of the Navajo Nation to approve and recommend the application of federal matching funds under the FTA Rural Public Transportation Program, which will allow the Navajo Transit System to provide greatly needed, low-cost, passenger transportation on the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Government Services Committee of the Navajo Nation Council hereby recommends to the Intergovernmental Relations Committee of the Navajo Nation Council to approve the Federal Transit Administration Rural Public Transportation application in the amount of \$382,216.00 to provide public transportation services.

2. The Government Services Committee of the Navajo Nation Council recommends that the Intergovernmental Relations Committee of the Navajo Nation Council authorize the Navajo Nation President to sign the application and accept the grant, if awarded, provided no substantial changes are made in the terms and conditions as authorized under the application.

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Government Services Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 6 in favor, 0 opposed and 0 abstained, this 8th day of April 1997.



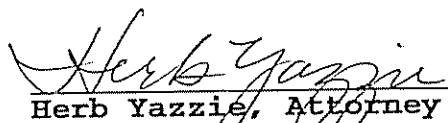
Ervin M. Keeswood, Sr., Chairperson  
Government Services Committee

Motion: Lenora Fulton  
Second: Charlie Billy



Contract No. \_\_\_\_\_

THIS AGREEMENT HAS BEEN REVIEWED, THIS 26th DAY OF  
June, 1997, BY THE UNDERSIGNED WHO HAS DETERMINED  
THAT THIS AGREEMENT IS IN APPROPRIATE FORM AND WITHIN THE POWERS  
AND AUTHORITY GRANTED TO EACH RESPECTIVE PUBLIC BODY.

  
Herb Yazzie, Attorney General  
The Navajo Nation

JUN 26 1997

Date

## Exhibit 1

### SCOPE OF WORK

1. The Contractor shall undertake and complete the activities as proposed in the approved application for Section 5311 funds. Such activities, hereinafter called Project, shall be accomplished as described in the Project Description, Attachment A.
  - a. The cost of the Project is estimated as indicated in Attachment B, Project Budget. The State of Arizona assumes no financial obligation or liability hereunder.
  - b. The method of payment shall be reimbursement of eligible costs incurred, up to the limits described herein. In accordance with the payment and reporting schedules prescribed by this Agreement, the Contractor shall submit reports and Project billings to State for reimbursement of non-operating and operating expenses. Approved capital expenses may be billed for reimbursement as incurred. In no event shall the total amount reimbursed by State exceed the federal share approved for the project.
  - c. Billings for reimbursement of eligible expenses and reports of contract activities shall be submitted monthly on forms provided by State.
  - d. Each request for reimbursement must be accompanied by a reimbursement description which will include information to verify the reimbursement request amount. Items to be included will be description/purpose, amount and code which will relate to the budget line item. Reimbursement will not be processed unless all information is provided in correct form.
  - e. Each activity report shall include, but not be limited to, data regarding ridership, mileage, operating hours, fare recovery ratio, cost per passenger trip, cost per mile, non capital cost per service hour, passengers per service hour, passengers per mile. State may impose a penalty of a 5% reduction of total federal reimbursement per billing period for all billings or reports submitted more than 90 calendar days after the end of the billing period. An exception will be made for the final billing, which may be submitted up to 60 calendar days after the end of the final billing period, before becoming subject to the late penalty.
  - f. Eligible costs are those costs attributable to the Project and allowable under the approved Project budget and the provisions of:
    - 1) Office of Management and Budget (OMB) Circular A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Government."
    - 2) OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments."
    - 3) OMB Circular A-102, Attachment O, "Standards Governing State and Local Grantee Procurement."
    - 4) OMB Circular A-128, "Audit Requirements."
  - g. All costs charged to the Project shall be supported by properly executed payrolls, time records, invoices, vouchers, warrants, and any other support evidencing that those costs were specifically incurred in the performance of the Project.
  - h. The Federal share payable for Project Budget expenses shall be subject to the following limits:

- 1) Capital expenses shall not exceed 80% of the net cost.
- 2) Administrative expenses shall not exceed 80% of the net cost.
- 3) Operating expenses shall not exceed 50% of the net operating costs or deficit.
- 4) Anti-drug compliance costs shall not exceed 80% of the net cost.
- 5) Training costs shall not exceed 100% of the net cost.

i. At least half of the Contractor's share for all expenses must be provided from sources other than Federal funds or from approved in-kind expenses. The remaining half of the Contractor's share may be made up of unrestricted funds from other Federal programs as described in Attachment B, Project Budget.

j. All donation and advertising revenues received in excess of the budgeted local match shall be used to reduce the federal share of the Project budget.

k. Lien on Project Equipment - To the extent of financial assistance provided, State shall hold a first lien on all capital equipment acquired under this Agreement in the amount of the federal share of the equipment cost. State shall also hold a first lien on any computer hardware, software or office equipment provided to the Contractor and paid for by State.

## 2. Use and Disposal of Project Equipment

a. Contractor shall observe the property management standards as set forth in OMB Circular A-102, Attachment N. The Contractor further agrees that the Project equipment shall be used for the provision of transportation service within the described service area and in the manner described in Attachment A, Project Description. If, at any time, the contract with State for the described service is terminated or Project equipment is not used in this manner, or is withdrawn from transportation service whether by planned withdrawal or casualty loss, the Contractor shall notify State within 72 hours of such event, and shall remit to State a proportional amount of the fair market value, if any, of the property, which shall be determined on the basis of the ratio of federal financial assistance to the actual cost of the equipment. Fair market value shall be deemed to be the value of the property as determined by competent appraisal at the time of such misuse or withdrawal from use, and as approved by State. In the event of loss due to theft, casualty or fire, the damages paid by the insurance carrier or payable from a self-insured reserve account shall be considered fair market value. In no event is salvage value to be considered fair market value. Upon State's receipt and approval of said payment, State's lien shall be released.

### b. Records

1) The Contractor shall keep satisfactory records with regard to the use of equipment purchased under this contract and shall submit to State upon request such information as is required in order to assure compliance with this clause. The Contractor shall submit to State during the period of required use of Project equipment, a certification that the equipment is still being used in accordance with the terms of this Agreement.

2) Project vehicles may not be used for non-Project purposes.

c. The Project equipment shall at all times be operated in a safe, prudent, lawful manner and within the limitations established by the manufacturer. The Contractor shall maintain the Project equipment in safe and mechanically sound condition and shall keep accurate records of such maintenance. The State shall have the right to conduct periodic inspections or site visits of Contractor's records and the Project equipment to verify compliance with this requirement.

d. The Contractor agrees to conduct a persistent and visible promotional program in order to insure that all facets of the service are known by and available to the general public, and in order to increase ridership on all trips. The Contractor shall provide State with copies or samples of promotional materials used. The Contractor shall submit to State on an annual basis, a plan describing marketing activities including, but not limited to, the following:

e. As part of the annual marketing plan, the Contractor is required to conduct formal and/or informal market analysis to determine what improvements can be made to the Project to better serve the general public.

f. The Contractor shall display, in a manner acceptable to State, a decal or similar sign on the exterior of the Project vehicles indicating that this device is open to the general public.

g. Changes to fares, routes, schedules, and the schedule of activities in Attachment A, Project Description, may be made with prior written approval from State without requiring a written amendment to this agreement.

h. Changes to budget line items may be made in accordance with the following rules:

- 1) Changes in and between operating and administration budget line items that are not in excess of 5% of the total Project cost, may be made with State's prior written approval.

- 2) Administrative funds may be rebudgeted for operating expenses with State's prior written approval. Operating funds shall not be reprogrammed for administrative expenses.

- 3) The capital contingency line item shall be used only for cost overruns of capital line items named in the Project budget.

- 4) No anti-drug compliance cost line items shall be reprogrammed for other expenses.

- 5) No training funds shall be reprogrammed for other expenses.

i. All other changes mutually agreed upon shall be incorporated by written amendments to this Agreement.

j. The Contractor shall furnish certificates to State showing motor vehicle liability insurance in force for the use of Project equipment for the following minimum amounts:

- 1) Collision and Comprehensive Insurance -- (as applicable).

- 2) Personal Injury, Medical, and Uninsured Motorist -- \$300,000.

- 3) Public Liability and Property Damage -- \$1,000,000.

Insurance Certificates shall name the State as additional insured. If the State holds liens on any Project equipment, insurance certificates shall also name State as loss payee. Insurance policies shall be occurrence form unless otherwise approved in writing by State. Such certificates are to be delivered to State concurrently with execution of this contract.

3. Procurement Requirements

a. The Contractor shall make purchases of any equipment, materials or services for the Project in compliance with the following:

- 1) Federal Management Circular A-87.
- 2) OMB Circular A-102, Attachment O.
- 3) UMTA Circular 7010.1, Capital Cost of Contracting.
- 4) Title 49, Code of Federal Regulations, 49USC 5323(l) 49CFR Part 661, "Buy America Requirements."
- 5) Title 49, CFR Part 23, "Participation by Minority Business Enterprise in Department of Transportation Programs", as amended.
- 6) UMTA Circular 4716.1, the UMTA Disadvantaged Business Enterprise Women Business Enterprise requirements for Recipients and Transit Vehicle Manufacturers.
- 7) State "DBE" Program Plan.
- 8) UMTA Order 4220.1A, "Third-Party Contracting Guidelines" dated 6-8-82.
- 9) State "Section 5311 Required Purchasing Procedures."
- 10) Pre-award and Post Delivery Audit Requirements, 49USC 5323, 49CFR Part 663.
- 11) Bus Testing Certification of compliance 49USC 3323 (c), 49 CFR Part 665.
- 12) Debarement Suspension Certification.

b. The Contractor shall submit its bid specifications to State for approval prior to release of the specifications to possible bidders. State shall concur in the bid award prior to any agreement or contract being executed for the purchase of services or capital equipment for the Project exceeding \$5,000.

OTHER PROVISIONS

1. Retention of Records, Audit, and Reimbursement for Audit Exceptions.

a. The Contractor, and any subcontractor, shall retain all books, accounts, reports, files and other records relating to this contract for a period of five years from completion of the contract. Such records shall be subject to audit and inspection at any reasonable time during the term of the contract or within five years after completion thereof, as provided by ARS Section 35-214.

b. The final audit of this Project will be conducted pursuant to OMB Circular A-128, the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," and generally accepted auditing standards established by the American Institute of Certified Public Accountants. The Contractor also agrees to provide State with a copy of the final audit report.

c. The Contractor agrees to reimburse State for any expenditure under this Agreement for which it received payment or reimbursement, as applicable, which is disallowed by an audit exception by State, the State or federal government.

d. If federal or state audit exceptions are made relating to this contract, the Contractor shall reimburse all costs incurred by the State of Arizona and State associated with defending against the audit exceptions or performing an audit or follow-up audit including but not limited to: audit fees, court costs, attorney fees based upon a reasonable hourly amount for the Assistant Attorney General based upon reasonable charges in the community, travel costs, penalty assessments, and all other costs of whatever nature.

e. Immediately upon notification from State, the Contractor shall reimburse the amount of the audit exception and any related costs directly to the appropriate Federal agency or State as specified by State in the notification. The Contractor shall indemnify the State and hold them, their officers, agents, and employees harmless against any and all liability or damages in regard to audit exceptions.

f. The Single Audit Act requires: All sub-recipients which receive less than \$300,000 will no longer be required to submit single audit reports, however, the State shall have an audit made IAW Circular A-128 or A-133. The audit shall cover the entire operations of the State and the sub-recipient.

The auditor shall determine whether (1) the financial statements of the government department, agency or establishment present fairly its financial position and results of its financial operations IAW generally accepted accounting principles; (2) the organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs IAW applicable laws and regulations; and (3) The organization has complied with laws and regulations.

2. If, during the course of this Agreement, situations arise which prevent its completion within the time allotted, an extension of the contract time may be granted by mutual agreement of the parties hereto
3. If this contract is terminated, Contractor will be compensated for work performed up to the effective date of termination.
4. Failure to perform any and all of the terms and conditions of this contract, including the schedule of work, shall be deemed a substantial breach thereof. The State shall give the Contractor written notice thereof. After receipt of such notice, the Contractor shall have five working days in which to respond. In the event the Contractor does not cure such failure to the satisfaction of State, the State may terminate this Contract without further consideration by so notifying the Contractor in writing. In the event of cancellation of this Contract, Contractor shall not be entitled to damages and agrees not to sue State for damages therefor. After notice of cancellation, Contractor agrees to perform the terms and conditions of this contract up to and including the date of cancellation, as though no cancellation had been made.
5. Subcontracts
  - a. The Contractor shall not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of State.
  - b. Should subcontractors be authorized by State, the subcontractors will be subject to all provisions of this Agreement. It will be the Contractor's responsibility to duly inform the subcontractors by means of a contract or other legally binding document stipulating the subcontractors responsibility to comply with this Agreement

6. The Contractor hereby agrees to indemnify, defend and save harmless the State, any of its departments, divisions, agencies, officers or employees from all sums which the State, any of its departments, divisions, agencies, officers or employees may be obligated to pay by reason of any liability imposed upon any of the above for damages arising out of the performance of the Project or this Agreement, or caused by any error, negligence, omission or act of the Contractor or any person employed by him, or others for whose acts the Contractor is legally liable. In the event of any legal action, the above sums shall include, but not be limited to court costs, expenses of litigation and reasonable attorney's fees.
7. It is not the intent of this Agreement to place the State in the role of guarantor for protections in instances where a legally and financially responsible Contractor defaults on its obligations. The State enters into this Agreement to absolve itself of financial liability for the terms and conditions of the Section 13(c) Special Warranty, included herein by reference, assigning liability to the Contractor through this Agreement between the State and Contractor. The Contractor agrees to assume said liability and agrees that the terms and conditions of the Section 13(c) Special Warranty shall apply for the protection of the transportation related employees of any employer providing transportation services assisted by the Project, and transportation related employees of any other surface public transportation providers in the transportation service area of the Project. An appeal under Section 13(c) shall not void or suspend the terms of this Agreement.
8. No member of the Arizona Legislature nor any member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom. The provisions of this clause shall be extended to all public employees, officers, or tribal council members.
9. The Contractor shall comply with all federal, state and local laws, ordinances, rules and regulations applicable to the performance of this contract and the work hereunder.
10. The Contractor shall comply with all applicable requirements of the following regulations relative to nondiscrimination:
  - a. Title VI of the 1964 Civil Rights Act.
  - b. Executive Order 83-5.
  - c. 49 CFR Part 23, "Participation by Minority Business Enterprises in Department of Transportation Programs."
  - d. 49 CFR Part 23, 45 CFR 45281 (7/3/80), "Guidance for Implementing DOT Rules Creating a Minority Business Enterprises Program in DOT Financial Assistance Programs."
  - e. 9 CFR Part 23, 48 CFR 141 (7/21/83), "Participation by Minority Business Enterprises in Department of Transportation Programs."
  - f. 49 CFR 27, Parts 37 and 38 Transportation for Individuals with Disabilities; Final Rule.
  - g. 49 CFR 21, "Nondiscrimination in Federally Assisted Programs of the Department of Labor Regulations (41 CFR Part 60).
11. The Contractor agrees to comply with State's "Program Plan for Participation of Disadvantaged Business Enterprises."

12. Other Regulations

- a. The Contractor shall address the needs of the elderly and disabled persons, pursuant to Section 504 of the Rehabilitation Act of 1973 (20 USC 794).
- b. The Contractor shall comply, as applicable, with the labor protection provisions of Section 13(c) of the Urban Mass Transportation Act of 1964, as amended.
- c. The Contractor shall comply, as applicable, with the Guidelines relative to charter bus and school bus operations.

13. If applicable, the following are General Requirements for Recipients :

- a. Policy. It is the policy of the Department of Transportation that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under the MBE requirements of 49 CFR Part 23 ~~apply to this agreement~~.
- b. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.
- c. Each DOT financial assistance agreement shall include the following: If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.
- d. The recipient shall advise each subrecipient, contractor, or subcontractor that failure to carry out the requirements set forth in 49 CFR, Part 23 breach of contract and, after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.
- e. Recipients required to submit affirmative action programs under § 23.41 (a)(2) or (a)(3) that have business opportunities for lessees shall submit to the Department for approval with their programs overall goals for the participation as lessees of firms owned and controlled by minorities and firms owned and controlled by women. These goals shall be for a specified period of time and shall be based on the factors listed in § 23.45(g)(5).
- f. Except as provided in this section, recipients are not required to include lessees in their affirmative action programs. Lessees themselves are not subject to the requirements of this part, except for the obligation of § 23.7 to avoid discrimination against MBE's.

14. If applicable, these are the Required MBE program components:

- a. The MBE liaison officer shall be responsible for developing, managing, and implementing the MBE program on a day-to-day basis; for carrying out technical assistance activities for MBE's; and for disseminating information on available business opportunities so that MBE's are provided an equitable opportunity to bid on the applicant's contracts.
- b. Procedures to ensure that MBE's have an equitable opportunity to compete for contracts and subcontracts. The recipient shall develop and use affirmative action techniques to facilitate MBE participation in contracting activities. These techniques include:



(1) Arranging solicitations, time for the presentation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of MBE's.

(2) Providing assistance to MBE's in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance.

(3) Carrying out information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

c. Recipients subject to the disadvantaged business enterprise program requirements of 49 CFR Part 23 shall compile and update their directories annually. The directories shall include the addresses of listed firms.

## ATTACHMENT A

### Navajo Transit System

#### SECTION 1. SERVICE AREA

The service area shall be the Navajo Reservation in Arizona and New Mexico with routes extending to the off-reservation community of Gallup, New Mexico, plus State Route 264 through the Hopi Reservation in Arizona.

#### SECTION 2. PROJECT SUMMARY

The Contractor will provide daily, Monday through Friday, fixed schedule, fixed route public transportation between Navajo Nation growth centers and border towns for purposes of employment, health and social services, consumer purchases and educational purposes. The primary growth centers are also the employment, health and social service centers for members of the Navajo Nation. Saturday service is outlined under Section 4-Route 5A.

#### SECTION 3. ROUTES AND SCHEDULES

Routes and schedules shall be as described in the Contractor's approved application for funding.

#### SECTION 4. FARES

The fares shall be as described in the Contractor's schedule.

If fare revenues fall below 22% of combined operating and administrative costs, the Contractor agrees to make up the difference from local funds.

Any fares collected will be applied toward the reduction of contract operational costs. If operational costs are funded completely from collected fares, any excess fares will be used to reduce the federal share of contract administrative costs.

## SECTION 5. COST ALLOCATION

Since the PROJECT vehicles may also be used for non-PROJECT purposes, the Contractor agrees to keep accurate vehicle mileage logs to distinguish between PROJECT and non-PROJECT mileage. ADOT will reimburse vehicle related operating expenses in proportion not to exceed the number of actually driven PROJECT miles as a percentage of the total miles. Charter services must be separated from mass transit services. No reimbursements may be made for charter services.

## SECTION 6. EQUIPMENT AND MAINTENANCE

The Contractor shall provide the service with 5 MCI-5 diesel coaches, 2 25 passenger Escort Vans, and 1 15 passenger van. All preventative maintenance and most minor repairs will be performed by the Navajo Transit Shop located in Ft. Defiance. Repairs that cannot be performed by the Navajo Transit System will be performed by outside repair shops approved by the Navajo Tribe's purchasing department.

## SECTION 7. SCHEDULE OF ACTIVITIES

The Contractor agrees to complete the following activities. Reports documenting the completion of these activities shall be submitted to ADOT by the dates shown below. ADOT may withhold reimbursements for administrative expenses if the schedule is not met by the Contractor.

**ACTIVITY**

**DEADLINE FOR REPORT  
SUBMISSION TO ADOT**

- |    |  |  |
|----|--|--|
| 1. | Minutes of Transit<br>Advisory Committee<br>Meetings       | January 1, 1998<br>April 1, 1998<br>July 1, 1998<br>October 30, 1998 |
| 2. | Annual Disadvantage<br>Business Enterprise (DBE)<br>Report | May 1, 1998  |
| 3. | Three Year Transit Plan,<br>including marketing<br>plans   | Draft - April 1, 1998<br>Final - June 1, 1998                        |
| 4. | Private Sector<br>Policies and Procedures                  | March 1, 1998  |

## ***ATTACHMENT B***

### **ADMINISTRATIVE BUDGET**

NAVAJO TRANSIT SYSTEM  
FY 97/98

<b>ITEM DESCRIPTION</b>	<b>BUDGET</b>
Transit Director (62%)	20,842
Secretary II	10,021
Administrative Assistant	12,181
Accounting Clerk III	10,520
Fringe Benefits	14,087
Office Supplies	900
Travel Expenses	2,700
Utilities	2,400
Marketing	6,000
Printing	180
Rental Equipment	1,800
Postage	300
Insurance	3,000
Dues & Subscriptions	900
Indirect Costs	15,879
 <b>B. ADMINISTRATIVE SUBTOTAL</b>	 <b>101,710</b>
 C. Local Share (20%)	 20,342
D. Federal Share (80%)	81,368
 <b>E. Local Share Source</b>	
 Navajo Nation	 20,342

## ***ATTACHMENT B***

### ***Operating Budget*** NAVAJO TRANSIT SYSTEM FY 97/98

<b>ITEM DESCRIPTION</b>	<b>BUDGET</b>
Driver Salaries	110,336
Parts Clerk	10,871
Mechanics	36,689
Overtime	16,120
Fringe Benefits	45,767
Fuel and Oil	49,910
Tires, Parts, Maintenance	40,920
Freight	745
Advertisement	6,200
Vehicle Insurance	7,500
Uniforms	1,240
Assigned Veh Use	4,340
Travel	3,410
Printing	3,100
Operating Supplies	3,100
Rental Equipment	620
Indirect Costs	43,359
<b>TOTAL ELIGIBLE OPERATING COSTS</b>	<b>384,227</b>
 B. Fare Revenues (22%)	 106,906
 C. Net Operating Costs	 277,321
 D. Local Share (50%)	 138,661
E. Federal Share (50%)	138,660
 <b>Local Share Source:</b>	
 Navajo Nation	 138,661

## ***ATTACHMENT B***

### **Substance Abuse Budget**

Navajo Transit System  
FY 97/98

Collection Site	
Medical Review Officer	
Lab Testing	1,000
Related Travel	295
<b>Totral Expenses</b>	<b>1,295</b>
Local Share (20%)	259
Federal Share (80%)	1,036

## **TRAINING BUDGET**

### DESCRIPTION

Training Expense	1,200
Local Share	-0-
Federal Share (100%)	1,200

## ***ATTACHMENT B***

### **BUDGET SUMMARY**

Navajo Transit System  
FY 97/98

	Cap	Oper	Admin	Anti-Drug Comply	Trng	Total
Fare Revenues		106,906				106,906
Local Share		138,661	20,342	259		159,262
Federal Share		138,660	81,368	1,036	1,200	222,264
Total		384,227	101,710	1,295	1,200	488,432

### **PERFORMANCE STANDARDS**

Minimum Farebox Recovery Ratio	22%
Cost per passenger mile:	1.81
Cost per vehicle service hour:	55.59
Cost per passenger trip:	8.91





GRANT WOODS  
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**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR97-1009TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED July 17, 1997.

GRANT WOODS  
Attorney General

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:c/6496